

UNITED STATES BANKRUPTCY COURT
FOR THE EASTERN DISTRICT OF VIRGINIA
Alexandria Division

In re: MICHAEL LETT
STEPHANIE UGALDE

Case No. 15-11455-RGM

Joint Married Debtors.

DARNELL SIMONEL

Plaintiff,

vs.

MICHAEL LETT
14938 Cummings Court
Woodbridge, VA 22193

STEPHANIE UGALDE
14938 Cummings Court
Woodbridge, VA 22193

Defendants.

AP No.

COMPLAINT

Parties and Jurisdiction

1. This adversary proceeding arises in the Chapter 7 case of Michael Lett and Stephanie Ugalde, Case No. 15-11455-RGM.
2. Mr. Lett and Mrs. Ugalde filed a joint voluntary petition under Chapter 7 of the Bankruptcy Code on April 29, 2015.
3. This Court has subject-matter jurisdiction over this adversary proceeding pursuant to 28 U.S.C. §§ 157, 1334, F.R.B.P. 7001 and the general order of reference from

the United States District Court for the Eastern District of Virginia dated August 15, 1984.

4. Venue is proper in this district under 28 U.S.C. § 1409(a).
5. This is a core proceeding under 28 U.S.C. § 157(b)(2)(E) and (J).
6. Defendants Michael Lett and Stephanie Ugalde are married joint debtors in Bankruptcy Case No. 15-11455-RGM, United States Bankruptcy Court for the Eastern District of Virginia, Alexandria Division.
7. Plaintiff Darnell Simonel (“Simonel”) is an adult individual residing in the Commonwealth of Virginia.
8. Plaintiff is a creditor of Mr. Lett and Mrs. Ugalde.

**Count I—OBJECTION TO GRANTING OF DISCHARGE OF MICHAEL LETT
AND STEPHANIE UGALDE: 11 U.S.C. § 727(a)(2)(A)**

9. The foregoing allegations in paragraphs 1 through 8 are hereby incorporated by reference.
10. Mr. Lett and Mrs. Ugalde filed their joint Petition, Schedules, and Lists required by the Bankruptcy Code and F.R.B.P. on April 29, 2015.
11. Mr. Lett and Mrs. Ugalde list on Schedule B—Personal Property, Section 2, a “Bank of America Checking Account” with a value of \$10.98.
12. In their schedules, the only incomes Lett and Ugalde disclosed were their salaries from Access National Bank and Monument Real Estate Services, LLC, respectively.
13. As of the petition date of April 29, 2015, Stephanie Ugalde was the owner of a checking account at Bank of America, account number 4350 2677 7937 (“Ugalde Bank of America account”) held in her name and the names of Katherine Tufan

and Nicolette Tufan.

14. On information and belief, between April 29, 2014 and April 29, 2015, Ms. Ugalde transferred money on at least thirty occasions from the Ugalde Bank of America account to another Bank of America checking account designated as “Chk 7908”.
15. On information and belief, between April 29, 2014 and April 29, 2015, Ms. Ugalde transferred money on at least thirty-two occasions from the Ugalde Bank of America account to another Bank of America checking account designated as “Chk 7885”.
16. On information and belief, between April 29, 2014 and April 29, 2015, Ms. Ugalde transferred money on at least 146 occasions from the Ugalde Bank of America account to another Bank of America savings account designated as “Sav 3504”.
17. On information and belief, between April 29, 2014 and April 29, 2015, Ms. Ugalde transferred money on at least one occasion from the Ugalde Bank of America account to another Bank of America savings account designated as “Sav 5619.”
18. On at least two occasions, on April 3, 2015, and April 17, 2015, Ms. Ugalde directed her employer, Monument Real Estate Services, LLC, to deposit parts of her salary, totaling \$2,829.86, into an account designated as “xxxxxxxxx7908.”
19. On at least two occasions, on April 3, 2015 and April 17, 2015, Ms. Ugalde directed her employer, Monument Real Estate Services, LLC, to deposit parts of her salary, totaling \$400.00, into an account designated as “xxxxxxxxx7885.”
20. On information and belief, the accounts “xxxxxxxxx7908” and “xxxxxxxxx7885”

are the same accounts as “Chk 7908” and “Chk 7885”, respectively.

21. On information and belief, Ugalde made these aforementioned transfers with the intention to hinder, delay, and defraud her’s and Mr. Lett’s creditors including, but not limited to, Mr. Simonel.
22. The transfers referenced in paragraphs 14-19 were completed within one year before Mr. Lett and Ms. Ugalde filed their petition on April 29, 2015.
23. Upon information and belief, within one year before the filing of their voluntary petition on April 29, 2015 Lett and Ugalde committed numerous other transfers of their property with the intent to hinder, delay or defraud their creditors, including, but not limited to, Mr. Simonel.

**Count II—OBJECTION TO GRANTING OF DISCHARGE OF MICHAEL LETT
AND STEPHANIE UGALDE: 11 U.S.C. § 727(a)(3)**

24. The foregoing allegations in paragraphs 1 through 23 are hereby incorporated by reference.
25. By order of May 7, 2015, this Court ordered Mr. Lett and Mrs. Ugalde to preserve all recorded information, including books, documents, records, and papers from which their financial conditioned may be ascertained.
26. In Exhibit A to plaintiff’s Motion for An Order Pursuant to Rule 2004, filed July 9, 2015, plaintiff requested that Mr. Lett and Mrs. Ugalde produce copies of paycheck stubs, direct deposit slips, commission plans, draw schedules, or any other record of compensation received by Mr. Lett and Mrs. Ugalde from January 1, 2013 through April 29, 2015 from any primary job they held during that time.
27. Also in his motion, plaintiff requested that Mr. Lett and Mrs. Ugalde turn over all documents concerning all bank accounts, including savings accounts, maintained

in their names dating from January 1, 2013 through April 29, 2015.

28. The Court ordered the production of these documents by order of July 27, 2015.
29. In response to this requests, Mr. Lett produced only three earnings statements, dated August 15, 2014, March 31, 2015, and April 15, 2015. Mr. Lett did not turn over any bank statements.
30. Under examination at the Section 341 hearing held in this matter on June 8, 2015, Mr. Lett testified that he works on commission.
31. Under examination at the Section 341 hearing held in this matter on June 8, 2015, Mr. Lett testified that the figure of \$2,000, listed as gross wages, salary and commissions in Schedule I of his petition, did not include any commissions he earned in his job.
32. At the 2004 examination on July 24, 2015, Mr. Lett testified that he no longer had access to the documents and information pertaining to his income other than those documents he produced.
33. At the 2004 examination on July 24, 2015, Mr. Lett testified that he was in possession of a commission plan for his job at Access National Bank but that he did not bring it to the examination. This commission plan has not been produced despite multiple requests directed to Mr. Simonel's counsel.
34. At the 2004 examination on July 24, 2015, Mr. Lett testified that he did not always receive his salary by direct deposit, that he would make counter deposits into the Ugalde Bank of America account.
35. At the 2004 examination on July 24, 2015, Mr. Lett could not remember the details of any specific counter deposits.
36. At the 2004 examination on July 24, 2015, Mr. Lett testified that he did not

maintain a bank account.

37. In response to the same order, Ms. Ugalde produced only two earnings statements, dated April 13, 2015 and April 17, 2015. She did not turn over any bank account statements other than those pertaining to the Ugalde Bank of America account.
38. Of the \$3,686.75 she received from these earnings statements, \$2,886.75 was routed to a checking account referred to in the earnings statements both as “Checking” and “xxxxxxxxxx7908.”
39. At the 2004 examination on July 24, 2015, Ms. Ugalde maintained the Ugalde Bank of America account was her only bank account.
40. On information and belief, Mr. Lett and Mrs. Ugalde own and/or control at least four other checking and savings accounts and either destroyed or concealed the books, statements, records or recorded information pertaining to those accounts.
41. On information and belief, Mr. Lett and Mrs. Ugalde concealed and/or destroyed the documents, records, and information pertaining to the income they have earned from their jobs and the manner in which they received that money.
42. There are no circumstances present in this case justifying Mr. Lett and Mrs. Ugalde’s destruction and/or concealment of these records.

**Count III—OBJECTION TO GRANTING OF DISCHARGE OF MICHAEL
LETT AND STEPHANIE UGALDE: 11 U.S.C. § 727(a)(4)(A) and (D)**

43. The foregoing allegations in paragraphs 1 through 42 are hereby incorporated by reference.
44. On Page 3 of their Voluntary Petition and in their Declaration Concerning

Debtor's Schedules, Mr. Lett and Mrs. Ugalde declared, under penalty of perjury, that the information contained in the petition was true and correct.

45. On information and belief, Mr. Lett and Mrs. Ugalde made the following false statements:

- a. On Official Form 22A-1 and in Schedule I, Mr. Lett and Mrs. Ugalde misrepresented Mr. Lett's gross wages to be \$2,000.00 a month, a figure that he admitted during his 341 hearing did not include commissions;
- b. On Official Form 22A-1 and in Schedule I, Mr. Lett and Mrs. Ugalde misrepresented Access National Bank and Monument Real Estate, respectively, to be their sole employers and sources of income when the statements from the Ugalde Bank of America account reflect at least seven separate and contemporaneous deposits from an entity known as Apollo Group, Inc.;
- c. On Schedule B, Item 2, Mr. Lett and Mrs. Ugalde misrepresented the Ugalde Bank of America account to be their only financial account and omitted any mention or reference to any other account owned or controlled by them; and
- d. In their Statement of Financial Affairs, Item 1, Mr. Lett and Mrs. Ugalde reported Mr. Lett's year-to-date gross income to be \$9,371.00, a figure representing \$1,371.00 of what his income should have been pursuant to his representations on Official Form 22A-1 and Schedule I;

46. On information and belief, Mr. Lett and Mrs. Ugalde withheld the following documents and information from the United States trustee during the course of

their bankruptcy:

- a. Other than the Ugalde Bank of America account, any record of the other accounts in their names and/or under their control;
- b. Documents and information pertaining to commission payments and other income earned by Mr. Lett and Mrs. Ugalde; and
- c. Documents including, but not limited to, deposit receipts, deposit slips, bank statements, earnings statements, or paychecks reflecting Mr. Lett and Mrs. Ugalde's true gross income.

47. Mr. Lett and Mrs. Ugalde made these misrepresentations and omissions knowingly, fraudulently, and in connection with their Chapter 7 bankruptcy case.

**Count IV—OBJECTION TO GRANTING OF DISCHARGE OF MICHAEL
LETT AND STEPHANIE UGALDE: 11 U.S.C. § 727(a)(6)(A)**

48. The foregoing allegations in paragraphs 1 through 47 are hereby incorporated by reference.

49. Pursuant to its order of May 5, 2015, this Court ordered Mr. Lett and Mrs. Ugalde not to conceal any of their property.

50. Mr. Lett and Mrs. Ugalde have violated this order by concealing the existence of active bank accounts they owned and/or controlled as recently as the same month in which they filed their petition.

51. Pursuant to its order of May 5, 2015, this Court ordered Mr. Lett and Mrs. Ugalde to preserve all recorded information, including books, documents, records, and papers from which their financial condition and business transactions might be ascertained.

52. Mr. Lett and Mrs. Ugalde violated this order by destroying and/or concealing

information concerning their assets and income and produced almost no pertinent documents to Plaintiff in response to the Court's order of July 27, 2015.

53. Pursuant to its order of May 5, 2015, this Court ordered Mr. Lett and Mrs. Ugalde to cooperate with the Trustee so that he could perform his duties as required by law.

54. Mrs. Ugalde and Mr. Lett violated this section of the order by concealing and/or destroying financial documents documenting their assets and income.

**Count V—OBJECTION TO GRANTING OF DISCHARGE OF MICHAEL LETT
AND STEPHANIE UGALDE: 11 U.S.C. § 727(a)(7)**

55. The foregoing allegations in paragraphs 1 through 54 are hereby incorporated by reference.

56. On information and belief, the allegations contained in the previous counts occurred within one year of April 29, 2015, the date Mr. Lett and Mrs. Ugalde filed for Chapter 7 bankruptcy.

WHEREFORE, Plaintiff, Darnell Simonel, respectfully requests that the Court:

1. Pursuant to Counts I, II, III, IV and V enter an order denying the discharge of Michael Lett and Stephanie Ugalde pursuant to 11 U.S.C. § 727(a)(2), (3), (4)(A), (4)(D), (6)(A) and (7);
2. Award him his reasonable attorney's fees and costs expended;
3. Grant such further and other relief as deemed necessary and proper.

Respectfully Submitted

DARNELL SIMONEL

By Counsel

\s\ Patrick V. Foltz
Patrick V. Foltz VSB# 76736
BANKS AND ASSOCIATES
3158 Golansky Blvd., Suite 201
Woodbridge, VA 22192
(703) 553-2520
(703) 649-6446
legal@clbanks.com
Counsel to Darnell Simonel

Patrick V. Foltz, #76736
BANKS AND ASSOCIATES
3158 Golansky Blvd. Suite 201
Woodbridge, VA 22192
(703) 553-2520
(703) 649-6446 (Fax)
legal@clbanks.com
Counsel to Darnell Simonel